



Office of the Attorney General
State of Texas

DAN MORALES
ATTORNEY GENERAL

November 6, 1991

Mr. Bruce F. Baxter
City Attorney
The City of Killeen
P.O. Box 1329
Killeen, Texas 76540

OR91-553

Dear Mr. Baxter:

You ask whether certain information is subject to required public disclosure under the Texas Open Records Act, article 6252-17a, V.T.C.S. Your request was assigned ID# 13316.

You have received a request for copies of "any documents relating to the suspension of Building Inspector Rudy Perras." You claim that some of the requested information may be excepted from required public disclosure under section 3(a)(11) of the Open Records Act.

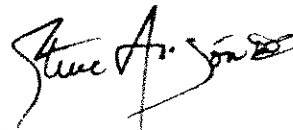
We have considered the exceptions you claim and have reviewed the documents submitted to us. Previous open records decisions issued by this office resolve your request. Open Records Decision 315 (1982) held that "basic factual information relevant to disciplinary action constitutes public information, including the fact that disciplinary action has been taken, the dates of such action, the punishment assessed, all factual details about the incident which gave rise to the disciplinary action, and any written findings regarding the reasons for the action."

However, section 3(a)(11) may still be invoked to protect information related to disciplinary action to the extent that such information reflects "opinions furnished or recommendations made in the course of the investigation." *Id.* Section 3(a)(11) excepts memoranda and letters, but only to the extent that they contain advice, opinion or recommendation intended for use in the entity's policy-making or

deliberative process. Open Records Decision No. 462 (1987) at 14. While the information you claim to be excepted under 3(a)(11) may constitute the opinion of the writer, it was not submitted as part of the city's ordinary deliberative or policy-making process. Rather, it comprises the disciplined employee's response to the disciplinary action and denial of the underlying factual basis of the action. Accordingly, the requested information may not be withheld under section 3(a)(11).

Because case law and prior published open records decisions resolve your request, we are resolving this matter with this informal letter ruling rather than with a published open records decision. If you have questions about this ruling, please refer to OR91-553.

Yours very truly,

A handwritten signature in black ink, appearing to read "Steve Aragon", with a stylized flourish at the end.

Steve Aragon
Assistant Attorney General
Opinion Committee

SA/GK/lcd

Ref.: ID#s 13316, 13570